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ABSTRACT

Although evidence indicates that Victim-Offender Mediation (VOM) provides an effective alternative to traditional sanctioning for young offenders, research investigating suitable candidates for VOM is lacking. Reintegrative shaming is theorized to be the mechanism underlying successful mediation; however, it is difficult to determine whether shame is the emotional reaction actually reflected by the theory's definition of 'shaming'. The arousal of state shame and guilt following VOM was evaluated within a sample of 23 young offenders. The relationships between this emotional arousal, shame or guilt proneness, empathic orientation, and victim presence during sanctioning were also explored. Finally, an investigation of whether these individual emotional characteristics predict short-term, prosocial outcomes (i.e., satisfaction, positive attitude) was conducted. State guilt was significantly aroused among offenders diverted to VOM; however, only when a victim representative, rather than the victim participated in medication. Regression analyses demonstrated that pre-sanction guilt levels and cognitive empathic orientation significantly predicted the magnitude of guilt arousal, and in turn, guilt arousal predicted greater satisfaction and positive attitude. These findings conflict with the perspective that shame arousal underlies the success of VOM and indicate a need for attention to how the mediation process differs as a function of victim versus victim representative involvement. (Contains 22 references and 6 tables.) (Author)

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# Emotions and Young Offenders' Suitability for Victim-Offender Mediation

by

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**Abstract**

Although evidence indicates that Victim-Offender Mediation (VOM) provides an effective alternative to traditional sanctioning for young offenders, research investigating suitable candidates for VOM is lacking. Reintegrative shaming is theorized to be the mechanism underlying successful mediation, however, it is difficult to determine whether shame is the emotional reaction actually reflected by the theory's definition of 'shaming'. The arousal of state shame and guilt following VOM was evaluated within a sample of 23 young offenders. The relationships between this emotional arousal, shame or guilt proneness, empathic orientation, and victim presence during sanctioning were also explored. Finally, an investigation of whether these individual emotional characteristics predict short-term, prosocial outcomes (i.e., satisfaction, positive attitude) was conducted. State guilt was significantly aroused among offenders diverted to VOM, however, only when a victim representative rather than the victim participated in mediation. Regression analyses demonstrated that pre-sanction guilt levels and cognitive empathic orientation significantly predicted the magnitude of guilt arousal, and in turn, guilt arousal predicted greater satisfaction and positive attitude. These findings conflict with the perspective that shame arousal underlies the success of VOM and indicate a need for attention to how the mediation process differs as a function of victim versus victim representative involvement.

For many years, the primary focus of the juvenile justice system has been to criminalize delinquent behavior and punish young offenders (Arrigo & Schehr, 1998; Latimer, Dowden, & Muise, 2001; Niemeyer & Shichor, 1996). Traditional retributive processes focus on the offense and the task of assigning sanctions, and equate offender accountability with youths' passive acceptance of punishment (Daly, 2000). Research has demonstrated that this reliance on retribution is ineffective among youth, as the administration of punitive sanctions does not appear to have an appreciable impact on the crime rate (Arrigo & Schehr, 1998). Moreover, this traditional approach does not view attending to victims' needs as a primary objective; rather, the victims of youth crime are typically treated as passive and peripheral entities who are rarely compensated for the harm that has been caused (Niemeyer & Shichor, 1996).

In response to these difficulties, a restorative justice approach is emerging as an alternative within the youth criminal justice system. In stark contrast to retributive efforts that are guided by the presumption that punishment has deterrent and rehabilitative qualities, restorative theories postulate that it is the reparation of harm to the victim and reconciliation between an offender and his or her community members that actually promote positive changes among youths (Daly, 2000).

Under the umbrella of restorative justice models is victim-offender mediation (VOM), which has been described as the clearest operationalization of the restorative paradigm (Niemeyer & Shichor, 1996). This mediation process allows young offenders the opportunity to meet with their victims in the context of a safe, structured setting and engage in a discussion of the crime under the direction of a trained mediator (Bazemore & Umbreit, 2001). Research has indicated that VOM programs are more effective than court-based or other alternative measures programs, in which offenders are not provided the opportunity to meet and converse with their victims, with respect to procuring restitution from offenders and reducing rates of recidivism (Arrigo & Schehr, 1998; Bazemore & Umbreit, 2001; Roy, 1993).

Despite the evident effectiveness of VOM programs with young offenders, consideration of possible explanations for the percentage of youths who are not satisfied with the mediation process, do not comply with restitution agreements, and who re-offend post mediation, is warranted. An apparent oversight in the literature may provide one such explanation: No attention has been provided to the characteristics of young offenders that may impact their suitability for VOM. The current protocol for selecting youths for diversion appears to be entirely based on legal factors (e.g., the seriousness of the crime, whether questions of fact exist, etc.), rather than individual factors that may determine an offender's ability to benefit from the mediation process. Moreover, given reports that there is a trend in referrals toward mediating crimes of increasing severity and complexity (e.g., offenders who have multiple prior convictions, cases in which there is ambiguity regarding the roles of victims and offenders, etc.), the decision process as it stands seems quite liberal (Umbreit, Greenwood, Fercello, & Umbreit, 2000).

An investigation to determine for whom the VOM process is most appropriate requires consideration of how mediation accomplishes its purported claims. One explanatory theory of criminal behavior indicates that the critical mechanism underlying the effectiveness of VOM is reintegrative shaming, or the induction of shame followed by efforts to reconcile the offender with the community (Braithwaite, 1989). Braithwaite (1989) argues that whereas standard justice proceedings are essentially comprised of formal sanctioning measures that offenders often perceive as arbitrary, the social condemnation inherent to the mediation process has the intention of both holding offenders accountable for their actions and engendering awareness of the impact that their actions had on others. Specifically, requiring that the offender describe his or her offense in detail, and discuss the consequences of that offense for him- or herself, the victims, and any third parties, are crucial elements of the VOM process that allow for the exchange of emotions between participants and facilitate changes in their relationships (Retzinger & Scheff, 2000).

The assertions made by reintegrative shaming theorists suggest that shame would be a critical variable to consider in an investigation of individual offenders' suitability for the VOM process. However, it is difficult to determine whether shame is the emotional reaction actually reflected by the theory's rather broad definition of shaming as "all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming" (Braithwaite, 1989, pg. 100). For instance, research has shown that shame does not differ from guilt in terms of the content or structure of the situations that arouse these self-conscious emotions. In fact, the negative events that engender shame and guilt are highly similar (Tangney & Dearing, 2002). Although the terms shame and guilt are often used inconsistently or interchangeably in the psychological literature, developmental research demonstrates that shame and guilt are experienced as distinct emotions by middle childhood (Tangney, 1998). The general consensus is that whereas guilt is an agitation-based emotion or painful feeling of regret involving a negative evaluation of a particular action, shame is a dejection-based emotion or feeling of helplessness that involves a negative evaluation of the whole self (Tangney & Dearing, 2002; Turner & Waugh, 2001; Ferguson & Stegge, 1998; Leith & Baumeister, 1998; Tangney, 1998; Baumeister, Stillwell, & Heatherton, 1994). Given these definitions, inducing feelings of either shame or guilt in a young offender would meet Braithwaite's criteria for shaming if a mediator and victim express disapproval over the criminal act and condemn the offending youth. Perhaps more noteworthy, however, should the disapproval and condemnation invoke remorse in the offender, then "shaming" would actually be tantamount to inducing feelings of guilt rather than shame.

Whether the shaming process that is central to VOM induces feelings of shame or guilt is an important distinction in light of evidence indicating that global, negative evaluations of the self lead to very different outcomes than condemnation of a specific behavior (Tangney & Dearing, 2002; Leith & Baumeister, 1998; Tangney, 1998). Shame extends beyond a particular transgression and leads an

individual to devalue his entire self, feel fundamentally flawed, and want to avoid others (Ferguson & Stegge, 1995; Leith & Baumeister, 1998). This critical scrutiny of the self is overwhelming and distressing, and impedes the ashamed individual from dealing with the immediate situation (Leith & Baumeister, 1998). To manage this aversive experience, the individual will subsequently respond by ignoring the misdeed that led to shame, denying his culpability, or becoming enraged or defensive with his accusers (Leith & Baumeister, 1998). All of these responses indicate that shame may not be a particularly adaptive emotion, and the induction of shame in a young offender would presumably be unlikely to produce beneficial consequences.

Guilt, by contrast, does not condemn the entire self because the negative affect and feelings of remorse are attached to a specific act or event (Leith & Baumeister, 1998). Since guilty individuals remain able to regard themselves as decent people who have uncharacteristically transgressed, they are not debilitated or demoralized by their emotions (Leith & Baumeister, 1998). Instead, the immediate phenomenological experience of guilt, which involves feelings of tension, remorse, and regret, stimulates guilty parties to minimize these feelings by apologizing and making amends for their actions (Tangney & Dearing, 2002; Leith & Baumeister, 1998). Research has indicated that, for this reason, guilt serves multiple adaptive, constructive, and prosocial functions (Leith & Baumeister, 1998; Tangney, 1998; Baumeister, Stillwell, & Heatherton, 1994). For instance, guilt redistributes emotional distress within dyads such as the victim-offender interaction so that any previous benefits the offender has experienced at the expense of the victim are diminished when the victim alleviates his or her own distress by inducing guilt in the offender (Baumeister, Stillwell, & Heatherton, 1994). Consequently, guilt motivates relationship-enhancing patterns of behavior because individuals do not want to relive the feelings of remorse and regret, and will thus reduce the frequency of interpersonal offenses (Baumeister, Stillwell, & Heatherton, 1994).

It is clear that the difference in focus between shame and guilt (self versus action) has important implications for the immediate experience of these emotions, and an individual's subsequent motivation and behavior (Tangney & Dearing, 2002). As such, an evaluation of young offenders' pre-mediation dispositions where these self-conscious emotions are concerned may provide critical information with regard to suitability for their diversion to VOM. Although most individuals are capable of experiencing both shame and guilt at different points in their lives, there are differences in the degree to which each individual is prone to experience either emotion during situations involving a transgression (Tangney & Dearing, 2002). Simply put, guilt-prone individuals are more likely to feel guilty in a conflict situation (e.g., during VOM), whereas shame-prone individuals are more likely to experience shame under the same circumstances (Leith & Baumeister, 1998).

A proneness to experience either of these self-conscious emotions, however, is not in itself the sole precursor to their situational emergence. As such, empathy, which is the mediating variable common to both the guilt and shame trait to state pathways, must also be considered as a factor that may impact a young offender's suitability for VOM (Leith & Baumeister, 1998; Baumeister, Stillwell, & Heatherton, 1994). Research indicates that individuals are innately prepared to feel empathic distress in response to the suffering of others; however, empathic distress is not unidimensional and thus the focus of that distress may vary (Leith & Baumeister, 1998; Davis, 1996; Baumeister, Stillwell, & Heatherton, 1994; Davis, 1980). Broadly defined as "a set of constructs having to do with the responses of one individual to the experiences of another" (Davis, 1996, pg 12), four basic dimensions of empathy have been identified: fantasy, perspective taking, empathic concern, and personal distress. Typically, only one of these components becomes the principal basis for an empathic response in a particular situation. Consistent with this argument, evidence indicates that guilt and shame derive from different components of empathy and therefore lead to different empathic responses (Leith & Baumeister, 1998). Specifically, the cognitive response of understanding another person's perspective predominates

with guilt, and it is this appreciation of how a transgression has impacted upon another person that invokes a young offender's desire to make reparations. With shame, however, the affective response of focusing on personal distress predominates because of the emotional strain associated with globally evaluating oneself as inferior (Leith & Baumeister, 1998). Presumably, if a young offender experiences shame during the VOM process, then conflict resolution and relationship building would be quite difficult to achieve. Of particular concern with respect to VOM, therefore, is previous research revealing that delinquent youths have a tendency to become emotionally reactive in intense situations, and this tendency reflects a self-oriented empathic perspective that inhibits their ability to focus on the distress of their victims (Lindsey, Carlozzi, & Eells, 2001).

If a proneness to experience shame facilitates a progression from state shame to self-oriented empathic distress followed by the inhibition of efforts to proactively deal with a conflict situation, then guilt-prone young offenders, who will more likely experience guilt and demonstrate enhanced perspective taking when faced with victims, may be more suitable for VOM than shame-prone young offenders. As such, the present study endeavors to resolve the following questions: First, which, if any, self-conscious emotions are aroused in young offenders who experience VOM? Secondly, is state (e.g., evoked) guilt or shame, empathic orientation, or a combination of these emotional variables the mechanism underlying the prosocial outcomes associated with VOM? Thirdly, is a *proneness* to experience the identified self-conscious emotion a necessary prerequisite for VOM to arouse that emotion among young offenders diverted to either process? Finally, irrespective of emotional proneness, are victim-offender interactions a necessary component of sanctioning measures to produce the identified emotion, perspective taking, and associated prosocial outcomes among young offenders?

## Method

### Participants

A total of 23 participants, 19 males and 4 females, ranging in age from 12 to 17 years (M = 13.96 years, SD = 1.49 years) were recruited from an alternative measures program in southern Ontario, Canada that receives pre- and post-charge referrals from the Crown Attorney (i.e., prosecutor) for victim-offender mediation services. All of the youths sampled were enrolled in either an elementary (52% in grades 7 and 8) or secondary school (48% in grades 9 through 12). The adolescents' family configurations were quite varied, with the majority of participants residing solely with their biological mothers (35%) or both biological parents (30%), and the remainder residing solely with their biological fathers (13%), with one biological parent and one step parent (9%), or with a guardian (13%). In terms of ethnicity, the distribution of the sample was as follows: 83% Caucasian, 13% First Nations, and 4% West Indian. The majority of parents were high school graduates or less (69%), and had never been charged with a criminal offense (80% of participants' biological mothers and 61% of participants' biological fathers).

### Procedure

Following their diversion orders, the VOM program coordinator was asked to relay a basic description of the study to the offenders and their parents or guardians. Consent for the researcher to directly contact these youths was subsequently obtained. At that time, clients were also informed that participation was not affiliated with the services provided by their program, and that they were not required to apprise program staff of their eventual decisions regarding participation. Written consent or assent (depending on the participant's age) to use the data collected from the offenders for research purposes was obtained from both the adolescents and their parents or guardians. At all times, participants were tested individually, and without parental presence, in a private area by

one of two trained graduate students in clinical psychology. During the first testing session (Time 1), which took place before offenders attended their mediation session, demographic information was collected and participants were administered measures assessing shame and guilt proneness, dispositional empathy, and state shame and guilt. During the second testing session (Time 2), which took place immediately after mediation, the state shame and guilt scale was re-administered and a semi-structured interview to gather offenders' perceptions regarding their sanctioning process was conducted. Time 1 and Time 2 data collection procedures each required approximately 30-45 minutes to complete, and took place as close to one week apart as conditions would allow ($M$ = 4.22 days, $SD$ = 3.52 days). Finally, follow-up was conducted with each offender's mediation coordinator to determine whether his or her restitution agreement had been complied with. Compliance was defined in the present study as completion of all components of the agreement contract (e.g., financial reparation, community service, essay) within the allotted time period.

**Instruments**

*Test of Self-Conscious Affect for Adolescents (TOSCA-A).* Participants' guilt and shame proneness was measured using the Test of Self-Conscious Affect for Adolescents (Tangney & Dearing, 2002). This self-report instrument is composed of 15 scenarios and accompanying responses depicting a range of behaviors. For each scenario, adolescents rated on a five-point scale the extent to which they think or feel in ways that reflect representations of shame (e.g., admonitions about one's self), guilt (e.g., admonitions about one's behavior), and externalization (e.g., attributing a mishap to someone else) (Ferguson & Stegge, 1995). When summed, the ratings represent shame proneness, guilt proneness, and proneness scores for the externalization and detachment constructs (Ferguson & Stegge, 1995). The higher an adolescent's score on any one scale (e.g., guilt proneness), up to a maximum score of 75, the more prone he or she is to experience that affect (e.g., guilt).

*Interpersonal Reactivity Index (IRI).* Individual differences in participants' dispositional empathy was evaluated using Davis' (1980) Interpersonal Reactivity Index. This 28-item, Likert format, multidimensional self-report instrument is comprised of four scales measuring different aspects of the global construct of empathy. The seven-item Fantasy subscale includes items relating to an individual's tendency to identify with fictitious characters in books, movies, and plays. The seven-item Perspective Taking subscale includes items reflecting an individual's tendency to think about and anticipate others' points of view. The seven-item Empathic Concern subscale contains items relating to individuals' experiences of warm compassionate feelings toward people in distress. Finally, the seven-item Personal Distress subscale contains items that are related to an individual's feelings of anxiety and discomfort when other people are observed undergoing distress. Participants were asked to respond to each of these questions on a scale ranging from 0 ("does not describe me very well") to 4 ("describes me very well"). The higher the participants' score on the IRI, the higher their level of empathy. When combined, the Fantasy and Perspective Taking subscales of the IRI assess the cognitive dimension of empathy, whereas the Empathic Concern and Personal Distress subscales assess the emotional or affective dimension of empathy (Davis, 1996).

*State Shame and Guilt Scale (SSGS).* The State Shame and Guilt Scale was administered to each participant to evaluate the extent to which they were experiencing state shame and/or guilt at two selected points in time (Marschall, Sanfter, & Tangney, 1994). The SSGS is a self-report scale composed of fifteen brief phenomenological descriptions of shame, guilt, and pride experiences. Respondents were asked to rate how they were feeling at that particular moment on a five-point scale, with response options ranging from "Not feeling this way at all" to "Feeling this way very strongly". All items are scored in a positive direction, and thus a higher score on a particular scale (e.g., shame, guilt, or pride) indicates that the respondent is feeling the represented emotion to a greater extent at the time of administration.

*Post Program Questionnaire (PPQ).* Young offenders' satisfaction with, and attitude toward their respective sanctioning programs was evaluated via the Post Program Questionnaire. This semi-structured interview required respondents to provide their opinions about aspects of the diversion experience ranging from whether they felt accountable for the punished offenses, to how likely it is that they would commit further offenses despite participating in mediation. This questionnaire is an adaptation of the Post Conference Offender Questionnaire developed for use in the Bethlehem Pennsylvania Police Group Conferencing Project, a research effort that evaluated the outcomes of family conferencing versus formal adjudication with young offenders (McCold & Wachtel, 1998). For the purposes of the proposed study, the responses to a subset of items were coded and compiled to represent offenders' post sanction feelings of satisfaction with the manner in which the sanctioning process was conducted, their treatment by all involved parties, and the outcomes for themselves and others. The responses to a second subset of questions were similarly coded and compiled to render a positive attitude score. These items comprise a scale which reflects offenders' post sanction attitudes with respect to fairness, their motivation to participate, how they feel they are perceived by family, friends, and involved parties, and their crime. The internal consistency of the truncated satisfaction and positive attitude scales (i.e., the questions selected for analysis) was evaluated using data collected during the present study and determined to be satisfactory (Cronbach's alpha = .81 for the satisfaction scale, and Cronbach's alpha = .80 for the positive attitude scale).

**Results**

Following an overview of descriptive findings regarding the VOM sanctioning process, the results presented below are divided according to the four objectives outlined in the Introduction. Preliminary exploratory analyses of scale distributions (e.g., outliers, skewness, and kurtosis) indicated that the assumptions underlying all statistics were satisfied. All statistical tests were conducted at an alpha level of .05.

**VOM Sessions**

Restitution agreements were successfully negotiated during 100% of VOM sessions, with assigned tasks including writing letters of apology, conducting poster presentations, completing community service hours, payment of monetary fines or charitable donations, and attendance at educational workshops. All participants complied with their restitution orders by the designated three to four week completion deadline.

An unexpected and noteworthy discrepancy arose within the VOM sessions. Whereas it is theoretically standard practice to proceed with mediation only when both the offender and victim(s) are present, the program site from which the present VOM sample was recruited opted to conduct VOM sessions in spite of victim absences. Consequently, of the 23 VOM sessions sampled, the victims were present during only eight (35%) of these meetings. During the remaining fifteen VOM sessions, a victim representative was utilized to ensure that all mediation tasks (e.g., providing the victim a "voice" during the sanctioning process, addressing victim impact, etc.) were accomplished. In all cases, these representatives (either a lawyer appointed by the victim or the mediation program coordinator) were familiarized with the offenses and had gathered both factual and anecdotal information from the victims prior to mediation. In consideration of the potential impact of this divide within the VOM sample, the VOM participants were subsequently divided for all analyses into VOM-V and VOM-VR groups to delineate victim versus victim representative presence, respectively.

**Research Question #1: Shame and Guilt Arousal**

Paired t-tests were conducted to evaluate participants' mean state shame and state guilt scores in the VOM-V and VOM-VR groups at Time 1 (prior to the mediation session) and Time 2 (immediately following the mediation session). The shame analyses revealed no significant difference between participants' state shame scores at Time 1 ($M$ = 11.75, $SD$ = 4.77) and Time 2 ($M$ = 10.50, $SD$ = 4.69) for the VOM-V group ($t$ (7) = .87, p = .41). Similarly, there was no significant difference

between participants' state shame scores at Time 1 ($M$ = 9.53, $SD$ = 3.83) and Time 2 ($M$ = 10.60, $SD$ = 4.21) for the VOM-VR group ($t$ (14) = -1.25, $p$ = .23). State shame scores therefore remained relatively low and virtually unchanged from pre- to post-VOM among all participants.

Amongst participants in the VOM-V group, the change in state guilt from Time 1 ($M$ = 17.38, $SD$ = 6.02) to Time 2 ($M$ = 14.63, $SD$ = 5.58) similarly failed to reach statistical significance ($t$ (7) = 1.42, $p$ = .20). A significant difference between Time 1 ($M$ = 11.47, $SD$ = 6.39) and Time 2 ($M$ = 16.47, $SD$ = 6.24) state guilt scores was observed, however, among participants in the VOM-VR group ($t$ (14) = -3.34, $p$ = .005). These results indicate that while there was a slight decline in mean state guilt scores among the VOM-V group, mean state guilt scores in the VOM-VR group increased significantly following mediation. Thus, only state guilt was aroused among young offenders diverted to VOM. This finding, however, only held true for youths whose mediation sessions proceeded with a victim representative rather than the victim.

**Research Question #2: Prediction of Prosocial Outcomes**

To examine the relationship between shame and guilt arousal, empathic orientation, and short-term prosocial outcomes, hierarchical multiple linear regressions were conducted. Given the 100% rate of restitution compliance among participants, this outcome was eliminated from analyses. Consequently, the prosocial outcomes utilized during analyses were limited to positive attitude and program satisfaction scores (mean item scores on the positive attitude and satisfaction scales of the PPQ, respectively).

Ideally, an investigation of whether the relationships in question operated differently as a function of membership in the VOM-V and VOM-VR would have been conducting by running separate regressions for each of the two subgroups. However, given the power limitations imposed by a small sample size, preliminary analyses utilizing recoded group variables were conducted to explore

for group effects. No such significant group effects were revealed, and thus participants were collapsed into a single group ($N = 23$) for both regression analyses.

*Program Satisfaction*

*Guilt:*

A regression analysis was conducted to explore the association between state guilt arousal, dispositional empathic orientation, and participants' post-sanction program satisfaction. Participants' program satisfaction scores at Time 2 served as the dependent variable, and the associated predictor variables were guilt difference scores (state guilt at Time 2 - state guilt at Time 1) in block 1, and the youths' cognitive empathy scores and affective empathy scores in block 2. In block 1, the guilt difference predictor was found to be significant ($F(1, 21) = 6.41$, $p = .019$), and was shown to account for 23% of the variance in offenders' satisfaction with their sanctioning programs. Neither of the variables entered in block 2 significantly contributed to participants' program satisfaction. For a complete list of these variables and their corresponding Beta weights, refer to Table 1.

A similar regression analysis was conducted to explore the association between state guilt arousal, dispositional empathic orientation, and post-sanction positive attitude among this group of participants. With participants' positive attitude scores at Time 2 serving as the dependent variable, the guilt difference predictor in block 1 was found to be significant ($F(1, 21) = 23.83$, $p < .001$), and was shown to account for 53% of the variance in offenders' post-sanction positive attitudes. None of the variables entered in block 2 significantly contributed to participants' positive attitude scores. For a complete list of these variables and their corresponding Beta weights, refer to Table 2.

*Shame:*

To explore the relationship between shame arousal, empathic orientation, and participants' program satisfaction, a regression analysis was conducted. Program satisfaction scores again served as the dependent variable, and the associated predictor variables were shame difference scores (state

Table 1

*Summary of Hierarchical Multiple Regression Analyses For Guilt and Empathy Variables Predicting Offenders' Program Satisfaction Scores at Time 2 (N = 23)*

| Variable | *B* | *SE B* | β | $\Delta R^2$ | *p* |
|---|---|---|---|---|---|
| Step 1 | | | | .23* | |
| Guilt Difference Score | .037 | .015 | .48 | | .02* |
| Step 2 | | | | .010 | |
| Cognitive Empathy Score | .0077 | .016 | .120 | | .63 |
| Affective Empathy Score | -.0040 | .021 | -.049 | | .85 |

* $p < .05$

Table 2

*Summary of Hierarchical Multiple Regression Analyses For Guilt and Empathy Variables Predicting Offenders' Positive Attitude Scores at Time 2 in the VOM Group (N = 23)*

| Variable | *B* | *SE B* | β | $\Delta R^2$ | *p* |
|---|---|---|---|---|---|
| Step 1 | | | | .53** | |
| Guilt Difference Score | .141 | .029 | .729 | | <.001** |
| Step 2 | | | | .029 | |
| Cognitive Empathy Score | .013 | .030 | .080 | | .68 |
| Affective Empathy Score | -.043 | .040 | -.214 | | .29 |

** $p < .01$

shame at Time 2 - state shame Time 1) in block 1, and participants' cognitive empathy scores and affective empathy scores in block 2. None of the predictors in blocks 1 or 2 were predictive of greater program satisfaction scores at Time 2, indicating that neither shame arousal nor dispositional empathic orientation were associated with this outcome for the VOM group. These results therefore indicate that it is greater state guilt arousal rather than state shame arousal that is associated with greater program satisfaction for youths diverted to VOM. For a complete list of these variables and their corresponding Beta weights, refer to Table 3.

A similar analysis was conducted to investigate the association between shame and positive attitude scores among youth diverted to VOM. Participants' positive attitude scores served as the dependent variable in this analysis, and the associated predictor variables were shame difference scores in block 1, and participants' cognitive empathy scores and affective empathy scores in block 2. Consistent with the lack of association between shame scores and program satisfaction, none of the predictors in blocks 1 or 2 were predictive of participants' positive attitudes scores at Time 2. The present data therefore indicate that a greater pre- to post-sanction change in state guilt, rather than state shame, was associated with a more positive attitude among youths diverted to VOM. For a complete list of these variables and their corresponding Beta weights, refer to Table 4.

Research Question 3: Proneness, Empathy, and Emotional Arousal

To evaluate the relationship between shame and guilt proneness, empathic orientation, and the arousal of state shame and guilt, two hierarchical multiple linear regressions were conducted. Preliminary analyses utilizing recoded group variables revealed no significant group effects, thus participants in the VOM-V and VOM-VR groups were collapsed into a single group ($N = 23$) for both regression analyses. The outcome of the first regression was the offenders' guilt difference scores, and the associated predictor variables were state guilt scores at Time 1, cognitive empathy scores, and affective empathy scores in block 1, and guilt proneness scores in block 2. The predictors in block 1

Table 3

*Summary of Hierarchical Multiple Regression Analyses For Shame and Empathy Variables Predicting Offenders' Satisfaction Scores at Time 2 (N = 23)*

| Variable | *B* | *SE B* | β | $\Delta R^2$ | *p* |
|---|---|---|---|---|---|
| Step 1 | | | | .010 | |
| Shame Difference Score | -.014 | .029 | -.102 | | .64 |
| Step 2 | | | | .040 | |
| Cognitive Empathy Score | .0092 | .018 | .144 | | .61 |
| Affective Empathy Score | -.020 | .023 | -.251 | | .39 |

Table 4

*Summary of Hierarchical Multiple Regression Analyses For Shame and Empathy Variables Predicting Offenders' Positive Attitude Scores at Time 2 (N = 23)*

| Variable | *B* | *SE B* | β | $\Delta R^2$ | *p* |
|---|---|---|---|---|---|
| Step 1 | | | | .012 | |
| Shame Difference Score | -.011 | .021 | -.110 | | .62 |
| Step 2 | | | | .014 | |
| Cognitive Empathy Score | .0043 | .013 | .092 | | .75 |
| Affective Empathy Score | -.0088 | .017 | -.151 | | .60 |

were found to be significant ($F$ (3, 28) = 5.62, $p$ = .007), and were shown to account for 48% of the variance in the magnitude of offenders' guilt difference scores. Of the predictors entered in block 1, offenders' state guilt scores at Time 1 significantly contributed to the outcome such that greater guilt difference scores were associated with lower state guilt prior to sanctioning ($p$ = 004). Offenders' cognitive empathy scores also significantly contributed to the outcome, with greater cognitive empathy scores related to greater guilt difference scores ($p$ = .024). Guilt proneness scores, however, the sole predictor in block 2, did not significantly contribute to changes in the youths' state guilt scores from Time 1 to Time 2. Refer to Table 5 for a complete list of these variables and their corresponding Beta weights.

The outcome of the second regression was the offenders' shame difference scores, and the associated predictor variables were state shame scores at Time 1, cognitive empathy scores, and affective empathy scores in block 1, and shame proneness scores in block 2. Although individually, state shame scores at Time 1 approached significance as a contributor to shame arousal, the predictors entered in block 1 did not significantly contribute to offenders' shame difference scores. None of the predictors in block 2 significantly contributed to offenders' shame arousal from Time 1 to Time 2. These findings indicate that the youths' proneness towards shame arousal did not predict the arousal of shame in the context of VOM. Refer to Table 6 for a complete list of these variables and their corresponding Beta weights.

## Discussion

Variation among young people regarding whether diversion to victim-offender mediation is perceived as a constructive judicial option is captured within comments made by participants in the present study. A seventeen-year old male offender reported: "They just take advantage of you. To avoid court you have to agree with everything they say about you. You have to feel remorse to make them happy. I just did what they wanted and apologized to the guy they said was a victim and now I

Table 5

*Summary of Hierarchical Multiple Regression Analyses For Variables Predicting Guilt Difference Scores (N = 23)*

| Variable | *B* | *SE B* | β | $\Delta R^2$ | *p* |
|---|---|---|---|---|---|
| Step 1 | | | | .48** | |
| State Guilt Score (T1) | -.686 | .205 | -.691 | | .004** |
| Cognitive Empathy Score | .502 | .204 | .548 | | .024* |
| Affective Empathy Score | -.342 | .239 | -.310 | | .17 |
| Step 2 | | | | .025 | |
| Guilt Proneness Score | -.141 | .152 | -.180 | | .37 |

* $p < .05$, ** $p < .01$

Table 6

*Summary of Hierarchical Multiple Regression Analyses For Variables Predicting Shame Difference Scores (N = 23)*

| Variable | *B* | *SE B* | β | $\Delta R^2$ | *p* |
|---|---|---|---|---|---|
| Step 1 | | | | .13 | |
| State Shame Score (T1) | -.386 | .193 | -.401 | | .06 |
| Cognitive Empathy Score | .098 | .113 | .209 | | .39 |
| Affective Empathy Score | -.0043 | .143 | -.007 | | .98 |
| Step 2 | | | | .023 | |
| Shame Proneness Score | .063 | .074 | .167 | | .41 |

don't have to go to court." By contrast, a sixteen-year old male indicated: "I feel really bad about what I did. I thought he [the victim] would be really mad but he just seemed really sad. I think if all kids did this after they got arrested then they would think twice about doing something stupid again." The post-sanction attitudes of these two offenders clearly illustrate that a single restorative justice procedure does not necessarily have a singular impact across all diverted youth. In consideration of this reality, the objectives of the present study were to assess whether feelings of shame or guilt are aroused via mediation, and to determine whether a proneness to experience shame or guilt, offenders' dispositional empathic orientation, or victim presence were prerequisites for the arousal of the identified emotion. Finally, the relationships between these emotional variables and the short-term, prosocial outcomes of mediation were also investigated.

Shame Versus Guilt Arousal

The theory of reintegrative shaming contends that shame induction in the context of restorative justice efforts both holds juvenile offenders actively responsible for their misdeeds and makes them aware of how their crimes impacted fellow citizens (Braithwaite, 1989). As such, the arousal of state shame during victim-offender mediation should theoretically underlie this sanctioning process. Despite this presumption in the literature, the present findings indicate that it may be the arousal of state guilt that actually constitutes the "shaming" mechanism. While state shame was not significantly aroused via the victim-offender mediation process, an interesting pattern of results regarding guilt arousal did emerge in the present study. Specifically, whereas the magnitude of participants' feelings of guilt did not change significantly from pre- to post-sanction among participants in the VOM-V group, a significant increase in state guilt was observed among participants in the VOM-VR group. Support for the possibility that guilt induction is the mechanism actually underlying VOM was therefore obtained, with the caveat that this mechanism only appeared to operate in a mediation context where victim representatives were present as opposed to the victims themselves.

While guilt was only significantly aroused when a victim representative attended the mediation, shame was not aroused via mediation under any circumstances. Additionally, although youths in the VOM-V group had somewhat elevated levels of pre-sanction state guilt, there was still substantial room for increases in their post-sanction state guilt scores. Thus, attention to how the process of mediation may have differed as a function of victim versus representative presence is warranted. Research has demonstrated that guilt is aroused when a negative event is perceived as being personally controllable or is attributed to a specific action rather than to uncontrollable factors such as low ability or character defects (Ferguson and Stegge, 1995). Given that individuals who served as victim representatives were all highly educated veterans of the mediation process, it is not unreasonable to speculate that these experienced and articulate parties were consistently able to convey issues related to victim impact in a manner that attacked the offenders' actions rather than their character. In contrast, the personally invested victims, who were certainly novices with respect to VOM, may have been more apt than the representatives to utter emotionally laden comments questioning the offenders' characters and abilities. Victims may also have been less apt to limit themselves to statements indicating the perception that these criminal acts were isolated incidents in the youths' lives. An unfortunate limitation of the present study is that without transcripts or recordings of the mediation sessions, this supposition cannot be confirmed or refuted. Future efforts to evaluate the consequences of not conducting VOM in a completely uniform manner across juvenile offenders are a necessity, and will require detailed coding of the discussions that transpire during VOM meetings.

Prosocial Outcomes of VOM

The distinction between guilt and shame arousal during mediation is an important consideration given research revealing that their distinct induction leads to quite discrepant attitudinal and interpersonal outcomes. One line of empirical evidence indicates that while guilty individuals focus on condemning their misdeeds and wish to make amends for their actions, shamed individuals focus on

devaluing themselves and seeking escape from the discomfort of this critical evaluation (Ferguson & Stegge, 1995; Leith & Baumeister, 1998; Tangney & Dearing, 2002). In the context of reintegrative shaming theory, Braithwaite (1989) also concedes that there is a distinction between guilt and shame reactions, however, he argues that it is shame which leads to constructive outcomes such as conscience building and the deterrence of criminal behavior. In accordance with both proposals, the present findings indicate that shame and guilt arousal *are* differentially associated with the short-term, prosocial outcomes of VOM. In contradiction with reintegrative shaming theory, however, it was the arousal of state guilt that significantly predicted offenders' satisfaction with the mediation process and positive attitudes about their criminal acts, the victims, and the ultimate resolutions of the crimes. This result is in line with numerous empirical indications that feelings of shame lead to such self-oriented reactions that individuals' abilities to focus upon crucial discourse regarding the impact of their actions on others is severely impaired (Tangney & Dearing, 2002).

The lack of a relationship between shame arousal and short-term positive VOM outcomes such as program satisfaction and positive attitude may be explained by examining how individuals often cope with their emotions in the midst of a shame experience. Previous findings suggest that although a shamed individual's feelings of devaluation and hostility are initially directed inward, the shame-arousing experience is so aversive that there is frequently an inclination to shift the burden of blame and criticism outward as a form of ego-protection (Tangney & Dearing, 2002). Alternatively, the individual may opt to emotionally withdraw him- or herself from the situation in an attempt to hide his or her "flawed" self from the "shamers" (Tangney & Dearing, 2002). Logic suggests that escaping the shame-inducing situation in either manner would be destructive to the goals of VOM, a judicial process that depends on offenders' emotional presence and their capacity to accept blame for their wrongdoings. As such, if those youths who experienced shame arousal during mediation felt scrutinized by, and diminished in comparison to the other attendees, it is not surprising that neither

greater satisfaction with their treatment nor a more positive attitude about the victim and resolution process resulted from VOM.

Predictors of Guilt Arousal

Presuming that guilt arousal is the emotional mechanism underlying the success of VOM with adolescents, an investigation of individual characteristics that facilitate this outcome is pertinent to the determination of youths' suitability for diversion. Premised upon literature linking the emergence of state shame and guilt with trait shame and guilt and dispositional empathy, the present research endeavored to confirm whether these stable traits were a necessary prerequisite for guilt arousal under the circumstances of VOM. Previous research indicating that guilt-prone individuals are likely to experience guilt arousal in a specific conflict situation, whereas shame-prone individuals are likely to experience shame arousal, suggests that a greater tendency towards guilt proneness would predict guilt arousal among young offenders. Present analyses, however, determined that neither guilt- nor shame-proneness predicted the emergence of their state counterparts during VOM. Consequently, although only offenders in the VOM-VR group experienced a significant increase in state guilt from pre- to post-VOM, the guilt-proneness scores among participants in this subgroup were not significantly discrepant from the remainder of the sample.

In light of evidence that youths often fail to grasp the effects of their criminal behavior, frequently requiring a shift in their depersonalized perspective on the crime during mediation, the role of offenders' dispositional empathic orientations in generating guilt during VOM was also considered (Umbreit, 1994). Providing further indication that attention to empathy is warranted, there is agreement in the literature that youths' capacity for empathy facilitates positive interpersonal relationships and inhibits destructive behaviors towards others (Tangney & Dearing, 2002). Previous findings indicate that establishing a connection among youths between offenses and victims' direct hurt, and thereby feelings of guilt, specifically involves a stable tendency to demonstrate cognitive, rather than affective,

empathy (Tangney & Dearing, 2002). Consistent with this literature, a dispositional tendency towards cognitive empathy was predictive of guilt, but not shame, arousal among youths in the combined sample in the present study. Combined with the finding that greater guilt arousal is associated with greater satisfaction and positive attitudes following VOM, and the relatively low empathy scores obtained by participants, this pattern of results suggests that youths with even a weak tendency towards cognitive empathy may be particularly suitable for diversion from traditional court processes.

Evidence suggests that the ability to adopt the perspectives of another person, particularly in the context of a conflict situation, leads to a greater tolerance for that other's position and the reduced likelihood of a subsequent hostile or aggressive reaction towards him or her (Davis, 1996). Despite the observed links between guilt arousal and dispositional cognitive empathy, and between dispositional cognitive empathy and prosocial outcomes for the VOM-V group, however, this empathic orientation was not directly predictive of either program satisfaction or positive attitude about the VOM process. One explanation for this outcome is that the measure of empathy utilized in the present study provided an estimation of dispositional empathy, only one antecedent to young offenders' empathic responding (Lindsey, Carlozzi, and Eells, 2001). For instance, although young offenders may have a tendency towards either cognitive or affective empathy, differences in their socialization may render their understanding and demonstration of empathy discrepant from those in society at large (Lindsey, Carlozzi, and Eells, 2001). Moreover, situational factors, such as offenders' similarity to their victims, also serve as important antecedents to empathy episodes (Lindsey, Carlozzi, and Eells, 2001). Consequently, merely a predisposition towards perspective taking does not ensure that these youths will interpret others' viewpoints in a manner consistent with the general public, nor will it necessarily lead them to behave in a traditionally empathic manner. To identify the true relationship between empathic orientation and positive post-sanction impressions and attitudes, research efforts that both

account for these individual factors and incorporate a measure of how and to what extent empathy was manifested during VOM is warranted.

The Impact of Victim-Presence

Through the lens of restorative justice efforts such as VOM, successfully holding youths accountable for their behavior is equated with ensuring their understanding and acceptance of responsibility for criminal behavior rather than with their passive acceptance of punishment (Umbreit, 1994). Although there is clearly a less than voluntary dimension to VOM given youths' referral by the court system, successful mediations also depend on offenders' perceptions of fairness (e.g., coercive tactics are not used, youths play an active problem-solving role during the meeting, etc.) (Umbreit, 1994). Given the present data, which is limited to short-term outcomes, the impact of victim presence can therefore be most appropriately evaluated via attention to offenders' post-sanction perceptions and attitudes regarding their criminal acts, their victims, and the mediation process as a whole.

In light of the unexpected turn of events whereby victims were not consistently present during all VOM sessions, consideration must be provided to the impact of victim presence both in the physical and symbolic sense. As previously discussed, the data indicates that guilt arousal is significantly positively related to prosocial outcomes such as program satisfaction and positive attitude among offenders who underwent VOM, irrespective of whether victims were physically or symbolically present. However, the present study also found that significant pre- to post-sanction guilt arousal only occurred among participants whose mediation sessions involved victim representatives, and thus, the symbolic presence of a victim. In tandem, these two results are quite consequential for improving our understanding of optimal mediation conditions. The symbolic presence of a victim may be sufficient for increasing a young offender's feelings of guilt during mediation, and in actuality, a practiced and emotionally detached representative may more effectively impress the notion of victim impact upon youths. If, therefore, VOM programs typically proceed with mediation with the direct

involvement of unpracticed and emotionally involved victims, then the true mechanism underlying the success of VOM with youths may currently be operating in only a limited proportion of cases.

Limitations and Future Research Directions

There were several limitations in the present study that restrict the strength and generalizability of the findings. First, the difficulties associated with recruiting youths from VOM programs, which are scarce in Ontario and currently under-utilized as a sanctioning option, resulted in a smaller sample size than desired. The associated lack of solid statistical power may have obscured some additional between group differences. Consequently, the results must be interpreted with awareness of this shortcoming, and due caution. Secondly, the lack of available psychometrically sound instruments to measure young offenders' beliefs, attitudes, and levels of satisfaction required the extensive modification of a previously untested interview tool. Although the present instrument was tested for reasonable levels of internal consistency, this measure of post-sanction satisfaction and positive attitude may lack the evaluative strength associated with well-established measures.

Another limitation in the present study may account for the finding that guilt was only significantly aroused among participants in the VOM-VR. Firstly, youths in the VOM-V group demonstrated elevated levels of guilt during pre-sanctioning measurement. It may be argued that this discrepancy in pre-mediation guilt levels is a result of less than ideally timed pre-sanction measurement and can actually be attributed to the sanctioning processes already at work. The aim of the present study was to acquire offenders' baseline levels of state guilt and shame as a point of comparison against post-sanction levels. To avoid interference with the operation of these justice proceedings, however, the acquisition of a true baseline was not feasible, as offenders could not be recruited for participation prior to their approval for diversion to VOM. As such, when initial levels of state shame and guilt were collected, participants had already met with the mediator, been apprised of how mediation would progress, and informed of whether the victim or a representative would be in

attendance. Previous research indicates that involvement with crime is often quite traumatic for juveniles, particularly for first time offenders, who comprised the majority of the present sample (Umbreit, 1994). Moreover, facing the individuals violated by their crimes further places offenders in a very uncomfortable position (Umbreit, 1994). It is possible, therefore, that the likelihood of emotional arousal among participants in the VOM-V group was greater than among participants in the VOM-VR group, as the former offenders were acutely aware that facing their victims in a matter of days was inevitable.

Conclusions and Implications for the Justice System

In spite of these limitations, however, the strengths of the present study and the implications of the findings for future programmatic and research endeavors remain considerable. Given solid empirical evidence that the traditional punitive paradigm of justice has little impact on juvenile offenders, novel approaches such as victim-offender mediation warrant greater attention by researchers and justice officials alike. What has been established, is that cases are selected for diversion purely on the basis of legal criteria and that mediation has moderate, though significantly greater success than traditional options with regard to promoting the reduction of criminal behavior among young offenders. Present findings indicate that there are some individual emotional factors that, minimally, play a role in predicting the short-term success of VOM. If, therefore, this restorative option is to become increasingly embraced by the justice system and the communities who must reintegrate the offending youths, we must ensure that legalities do not obscure equally relevant criteria for determining suitability for diversion. It is only through a system of selection for mediation that encompasses the principle of treatment responsivity (Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, 1990) that the true potential of this process will be realized.

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